

judgment [D.E. 11]. On February 14, 2011, Whitfield filed a motion to amend his complaint [D.E. 12].

Courts must review complaints in civil actions in which pro se litigants seek relief from a governmental entity or officer, and dismiss a complaint if it is “frivolous, malicious, or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915A(a)–(b)(1). A case is frivolous if “it lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). Claims that are legally frivolous are “based on an indisputably meritless legal theory and include claims of infringement of a legal interest which clearly does not exist.” Adams v. Rice, 40 F.3d 72, 75 (4th Cir. 1994) (quotations omitted). Claims that are factually frivolous lack an “arguable basis” in fact. Neitzke, 490 U.S. at 325. The standard used to evaluate the sufficiency of the pleading is flexible, and a pro se complaint, “however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam) (quotation omitted). Erickson, however, does not undermine the “requirement that a pleading contain ‘more than labels and conclusions.’” Giarratano v. Johnson, 521 F.3d 298, 304 n.5 (4th Cir. 2008) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)); see Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949–52 (2009); Coleman v. Md. Ct. of Appeals, 626 F.3d 187, 190 (4th Cir. 2010), cert. granted, 2011 WL 500227 (U.S. June 27, 2011) (No. 10-1016); Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc., 591 F.3d 250, 255–56 (4th Cir. 2009); Francis v. Giacomelli, 588 F.3d 186, 193 (4th Cir. 2009).

“To state a claim under [section] 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.” West v. Atkins, 487 U.S. 42, 48 (1988). Additionally, a section 1983 plaintiff must allege the personal involvement of a defendant. See, e.g.,

Iqbal, 129 S. Ct. at 1948; Monell v. Dep't of Soc. Servs., 436 U.S. 658, 691–92 (1978); Wright v. Collins, 766 F.2d 841, 850 (4th Cir. 1985).

In this action, Whitfield names the Nash County Jail as defendant.⁴ A jail “is not a ‘person’ and is therefore not amenable to suit under § 1983.” Preval v. Reno 203 F.3d 821, 2000 WL 20591, at *1 (4th Cir. 2000) (per curiam) (unpublished table decision) (citing Will v. Mich. Dep't of State Police, 491 U.S. 58, 71 (1989)); see Brooks v. Pembroke City Jail, 722 F. Supp. 1294, 1301 (E.D.N.C. 1989). Thus, the court dismisses this action as frivolous.

For the reasons stated, the court DISMISSES plaintiff's action as frivolous under 28 U.S.C. § 1915A, and DENIES AS MOOT Whitfield's motions [D.E. 9–12]. The Clerk of Court is directed to close the case.

SO ORDERED. This 7 day of July 2011.


JAMES C. DEVER III
United States District Judge

⁴ To the extent that Whitfield seeks to amend this action to add any other defendant, he filed the identical motion in Whitfield v. Jenkins, 5:10-CT-3151-D [D.E. 9] (E.D.N.C.).